

The Honorable Richard A. Jones

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ROLAND JESSE DAZA-CORTEZ,

Defendant-Petitioner,

v.

UNITED STATES OF AMERICA,

Plaintiff-Respondent.

NO. C18-1608RAJ
(CR15-269RAJ)

**UNITED STATES’
SUPPLEMENTAL EXHIBITS
FOR RESPONSE TO AMENDED
PETITION FILED UNDER 28
U.S.C. § 2255**

Petitioner Roland Daza-Cortez has moved to vacate, set aside or correct his sentence based on ineffective assistance of counsel pursuant to Title 28, United States Code, Section 2255. After extensive briefing, this Court entered an Order on February 22, 2021, denying and dismissing all of Daza-Cortez’s claims of error except one. Dkt. 20. In the one remaining claim of ineffective assistance, Daza-Cortez contends that his former retained counsel, Emily Gause, provided constitutionally ineffective assistance because she did not adequately inform him of the February 1, 2017 expiration date of a plea offer extended by the Government, which Daza-Cortez now suggests he

1 wanted to accept but was unable to do so, even though he declined the offer on February
2 6, 2017. Dkt. 20 at 9-10.

3 Concluding that the records submitted by the parties to date were insufficient to
4 establish whether Ms. Gause adequately informed Daza-Cortez of the offer and its
5 deadline, this Court ordered an evidentiary hearing. Dkt. 20 at 12. Specifically, the
6 Order directed a hearing to consider the following questions:

- 7 1. Does Ms. Gause have in her possession any file notes regarding
8 communications with the Petitioner regarding plea offers and expiration
9 dates?
- 10 2. Does Petitioner have any additional evidence regarding Ms. Gause's
11 communications orally or in writing?
- 12 3. What facts or evidence can Petitioner present to demonstrate that
13 there was a reasonable probability he would have accepted the plea offer
14 before any represented or projected plea expiration date?

15 *Id.* The Court appointed Robert Gombiner to represent Daza-Cortez. Dkt. 21. The
16 hearing on this matter is scheduled for August 25, 2021, but will likely be postponed to
17 September.

18 In preparation for the hearing, the Court compelled Ms. Gause to provide to
19 current counsel for Daza-Cortez documents and information relevant to answering the
20 three questions posed by the Court, above. Dkt. 26. The Court sustained objections to
21 disclosure of three documents, and the remainder were ordered disclosed to the United
22 States. *See* Dkt. 31. The disclosed documents include a sworn Declaration by Ms. Gause
23 directly answering the first two questions, above, and notes and emails prepared by
24 Ms. Gause during her representation of Daza-Cortez.

25 The exhibits disclosed to the United States (other than those that were duplicates
26 of previously filed exhibits) are hereby filed as Supplemental Exhibits to the United
27 States' Response to Daza-Cortez's Amended Petition filed under 28 U.S.C. § 2255
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1 (Dkt. 9) and are hereby offered as part of the record in this case. Via telephone, Counsel
2 for Daza-Cortez, Mr. Gombiner, indicated no objection to this filing.

3 The parties intend to refer to these Exhibits, along with any others filed in the
4 2255 Petition(s) and the United States' Response(s), at the upcoming hearing.

5 DATED this 18th day of August, 2021.

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8 Respectfully submitted,

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10 TESSA M. GORMAN
11 Acting US Attorney

12 /s/ Sarah Y. Vogel
13 SARAH Y. VOGEL
14 Assistant United States Attorney
15 700 Stewart Street, Suite 5220
16 Seattle, Washington 98101
17 Phone: 206-553-2074
18 E-mail: sarah.vogel@usdoj.gov
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